

The letters seeking comments were sent to virtually all Indian tribes in Minnesota and Wisconsin.⁷⁵ Although many of these tribes were well beyond the 100-mile radius set forth in the draft Checklist, the Twin Cities Field Solicitor had concurred with the MAO's recommendation that all tribes served by it should be consulted.⁷⁶

Letters seeking comments also were sent to the local governments in the City of Hudson, the nearby Town of Troy and St. Croix County, in accordance with the Checklist requirement to consult with communities within 30 miles of the site. Consultation letters were not sent to the Governor of Wisconsin or to any other state or federal elected official.⁷⁷

a. Responses by Local Governments

On behalf of the City of Hudson, Mayor Thomas Redner submitted to the MAO various materials with a March 17, 1994, letter. Redner wrote that the city had “a strong vision and

⁷⁵The Menominee Tribe in Wisconsin was not included in the solicitation for unknown reasons.

⁷⁶MAO witnesses said that the expansive consultation was made in light of the proximity of Hudson to Minneapolis, and perceived arbitrariness of the suggested radius in the Checklist. Some thought that a decision could be made later as to whether geographic proximity should be weighed in assessing the solicited comments. They also noted that in connection with the application made by the Sault Ste. Marie tribe in Michigan in 1994, the MAO consulted all tribes in the state of Michigan.

⁷⁷Whether the Governor must be consulted at this early stage in the process, or whether such consultation could be deferred unless and until the Secretary sought his or her concurrence, was an open question at that time. According to the MAO employee directly responsible for work on the application, Tim LaPointe, the MAO staff believed that, for IGRA Section 20 purposes, the consultation requirement would be fulfilled when the Secretary sought the Governor's concurrence, assuming that the application was granted by DOI. In their view, the Governor should be consulted by the MAO only as part of the IRA and Part 151 analysis process. IGMS Director Manuel thought the MAO should have consulted the Governor and, in January 1995, she directed the MAO to do so; there is no evidence it was ever done by IGMS or the MAO.